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Question of the Falkland Islands (Malvinas)

**Letter dated 19 May 2010 from the Permanent Representative
of the United Kingdom of Great Britain and Northern Ireland
to the United Nations addressed to the Secretary-General**

In accordance with instructions received from the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honour to refer to the letter dated 15 March 2010 from the Permanent Representative of Argentina addressed to you, transmitting in an annex a statement by the Argentine Republic on the most recent developments in relation to the Falkland Islands (A/64/711).

The United Kingdom of Great Britain and Northern Ireland has no doubt about its sovereignty over the Falkland Islands and South Georgia and the South Sandwich Islands and their surrounding maritime areas.

The principle of self-determination, enshrined in the Charter of the United Nations, underlies our position on the sovereignty of the Falkland Islands. There can be no negotiation on the sovereignty of the Falkland Islands unless and until such time as the Falkland Islanders so wish. They have made clear that they wish to remain British.

The Government of the United Kingdom supports the self-determination focus of your message to the Special Committee on Decolonization, conveyed by the Under-Secretary-General for Political Affairs, at the opening of the 2010 session of the Special Committee on 25 February 2010. You said that it was crucial for administering Powers to work with the people of the Territories under their administration to generate further momentum for self-determination.

The Government of the United Kingdom is of the view that the current approach of the Special Committee on Decolonization is not working. By voting to reject an attempt to qualify the principle of self-determination in its consideration of draft resolution A/C.4/63/L.6 (adopted by the General Assembly as resolution 63/108 A), the Fourth Committee reaffirmed that there was no alternative to the principle of self-determination in the process of decolonization. By its vote, it also reaffirmed that the principle of self-determination is a fundamental human right, as recognized under the relevant human rights conventions. The Government of the United Kingdom believes that the Special Committee should now acknowledge that

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Fourth Committee vote and recognize the application of the principle of self-determination as the only long-term solution, in the twenty-first century, with regard to the remaining Territories.

The Government of the United Kingdom rejects any suggestion that hydrocarbons exploration in Falkland Islands waters amounts to unilateral action by the Government of the United Kingdom and is being carried out in contravention of General Assembly resolution 31/49 of 1 December 1976. The Government of the United Kingdom has encouraged the Government of the Falkland Islands to develop its own economy and future, and respects the Islanders' wishes. The decision to proceed with hydrocarbons exploration was made by the Government of the Falkland Islands and is part of the legitimate business of that Government carried out in accordance with local and international law.

The Government of the United Kingdom regrets the reduction in cooperation over South Atlantic affairs in recent years. It notes that in 2007 the Government of Argentina chose to withdraw from the 1995 UK-Argentina Joint Declaration on Cooperation over Offshore Activities in the South West Atlantic. It also notes that Argentina is refusing to participate in fisheries cooperation under the South Atlantic Fisheries Commission, despite the serious impact on the environmental sustainability of fish stocks in the South Atlantic. It further notes that Argentina chose to impose a ban on charter flights to the Falkland Islands in 2003, and continues to restrict aircraft from South America travelling to the islands. Argentina still maintains long-standing bans on companies working in both the Falkland Islands and Argentina.

So far in 2010, Argentina has sought to restrict the passage of ships to the Falkland Islands through Argentine waters through Presidential Decree 256/2010 and provisions within Argentine law. The Government of the United Kingdom considers that Presidential Decree 256/2010 and Disposition 14/2010 are not compliant with international law, including the United Nations Convention on the Law of the Sea. That Convention provides for ships of all States to enjoy the right of innocent passage through territorial seas and freedom of navigation in the waters beyond the territorial sea. Furthermore, with respect to the Strait of Magellan, the rights of international shipping to navigate these waters expeditiously and without obstacle is affirmed in the 1984 Treaty of Peace and Friendship between Chile and Argentina with respect to the Strait of Magellan. Article 10 of the Treaty of Magellan further provides that: "The Argentine Republic undertakes to maintain, at any time and in whatever circumstances, the right of ships of all flags to navigate expeditiously and without obstacles through its jurisdictional waters to and from the Strait of Magellan."

These actions demonstrate a disregard for international law and appear to be aimed at punishing a small self-sufficient people for their self-determined wish to retain their current sovereignty status.

The Government of the United Kingdom also notes that the Government of Argentina chose to introduce national legislation in 2009 that purports to include the Falkland Islands within a pre-existing Argentine province. This demonstrates a disregard by the Government of Argentina for British sovereignty, the Falkland Islands democratically elected Government and, most importantly, the Falkland Islands people's right to self-determination and their interests.

The Government of the United Kingdom remains open to discussions with the Government of Argentina on a whole range of issues relating to cooperation in the South Atlantic. Last year the Governments of the United Kingdom, Argentina and the Falkland Islands worked together to organize two visits of Argentine next of kin to the Islands; the events were very successful and were an example of good cooperation. The Government of the United Kingdom will continue to encourage the Government of Argentina and the Falkland Islands Government to foster an environment of mutual cooperation between the Falkland Islands and Argentina, using the formula on sovereignty contained in the UK-Argentina Joint Statement of 19 October 1989.

I should be grateful if you would circulate the text of the present letter as a document of the General Assembly under agenda item 23.

(Signed) Mark Lyall Grant
